

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

RUSSELL L. SILICATO, individually, and)	
KATHERINE L. SILICATO, individually,)	C.A. NO. 1:07-cv-00557-GMS
)	
<i>Plaintiffs,</i>)	
vs.)	
)	
TIMOTHY RYAN RICHARDSON,)	
individually, and)	
CHARLES A KLEIN & SONS INC,)	
a Foreign Corporation,)	
)	
<i>Defendants.</i>)	

AMENDED COMPLAINT

The plaintiffs amend their complaint in the above cause by filing an affidavit made on behalf of the plaintiffs as to the Defendant's non-resident, the said CHARLES A. KLEIN & SONS, INC., and of the sending of a copy of the Complaint with Process and Notice as required by statute, the said affidavit with exhibits thereto to be considered incorporated in said Complaint as a part thereof.

BY: /s/ David P. Cline
David P. Cline, Esq. (#2681)
1300 North Market Street
Suite 700
Wilmington, DE 19801
302-529-7848
Attorney for Plaintiffs

Date: October 18, 2007

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

RUSSELL L. SILICATO, individually, and)		
KATHERINE L. SILICATO, individually,)		C.A. NO. 1:07-cv-00557-GMS
)	
<i>Plaintiffs,</i>)	
vs.)	
)	
TIMOTHY RYAN RICHARDSON,)	
individually, and)	
CHARLES A KLEIN & SONS INC,)	
a Foreign Corporation,)	
)	
<i>Defendants.</i>)	

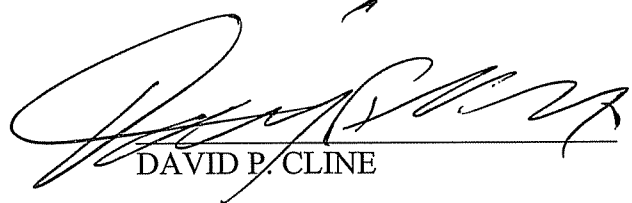
AFFIDAVIT

STATE OF DELAWARE	:	
	: SS	
NEW CASTLE COUNTY	:	

BE IT REMEMBERED, that on this 18th day of October, A.D., 2007 personally came before me, the subscriber, a Notary Public for the State of Delaware, David P. Cline, Esquire, who being by me duly sworn according to law, deposes and says:

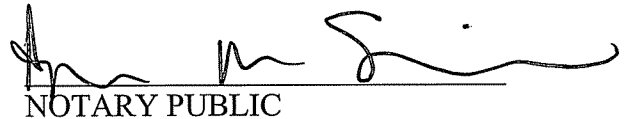
1. That he is the attorney for the above named plaintiffs.
2. To the best of my information and belief, on October 4, 2007, a notice was sent to defendant, CHARLES A. KLEIN & SONS, INC., by registered mail consisting of a copy of the process and complaint served upon the Secretary of State, and a statement that service of the original of such process has been made upon the Secretary of State and that such service is as effectual as if it had been made upon such nonresident personally within this state.
3. Attached as Exhibit "A" are the receipts given by the United States Post Office to me on October 4, 2007, the date of mailing of the notice to defendant.

4. Attached as Exhibit "B" is the original, signed green card returned by the United States Post Office on October 16, 2007.
5. The notice to defendant, CHARLES A. KLEIN & SONS, INC., as required by 10 Del. C. § 3112 was contained in the envelope at the time it was mailed.
6. Attached as Exhibit "C" is a copy of the notice which was sent to defendant, CHARLES A. KLEIN & SONS, INC., along with process and complaint.
7. Attached as Exhibit "D" is a copy of the letter that was sent along with the Notice.



DAVID P. CLINE

SWORN to and SUBSCRIBED on this 18th day of October, 2007.



NOTARY PUBLIC

Angela M. Spinella
Notary Public - State of Delaware
My Comm. Expires Aug. 1, 2009

Exhibit

A

RODNEY SQUARE STATION
 WILMINGTON, Delaware
 198019998
 3379300501 -0096
 10/04/2007 (800)275-8777 05:13:53 PM

Product Description	Sale Qty	Unit Price	Final Price
WEST CHESTER PA 19380			\$1.65
Zone-1 First-Class			
Large Env			
5.60 oz.			
Return Rcpt (Green Card)			\$2.15
Registered			\$9.50
Insured Value :		\$0.00	
Article Value :		\$0.00	
Label #:	RB295671980US		
Issue PVI:			\$13.30
WEST CHESTER PA 19380			\$1.65
Zone-1 First-Class			
Large Env			
5.70 oz.			
Return Rcpt (Green Card)			\$2.15
Registered			\$9.50
Insured Value :		\$0.00	
Article Value :		\$0.00	
Label #:	RB295671976US		
Issue PVI:			\$13.30
BERLIN MD 21811 Zone-2			\$1.31
First-Class Large Env			
3.40 oz.			
Return Rcpt (Green Card)			\$2.15
Registered			\$9.50
Insured Value :		\$0.00	
Article Value :		\$0.00	
Label #:	RB295671931US		
Issue PVI:			\$12.96
BERLIN MD 21811 Zone-2			\$1.31
First-Class Large Env			
3.30 oz.			
Return Rcpt (Green Card)			\$2.15
Registered			\$9.50
Insured Value :		\$0.00	
Article Value :		\$0.00	
Label #:	RB295671945US		
Issue PVI:			\$12.96

SYKESVILLE MD 21784 \$1.31
 Zone-2 First-Class
 Large Env
 3.30 oz.
 Return Rcpt (Green Card) \$2.15
 Registered \$9.50
 Insured Value : \$0.00
 Article Value : \$0.00
 Label #: RB295671959US

Issue PVI: \$12.96

SYKESVILLE MD 21784 \$1.31
 Zone-2 First-Class
 Large Env
 3.30 oz.
 Return Rcpt (Green Card) \$2.15
 Registered \$9.50
 Insured Value : \$0.00
 Article Value : \$0.00
 Label #: RB295671962US

Issue PVI: \$12.96

Total: \$78.44

Paid by:
 Personal Check \$78.44

Order stamps at USPS.com/shop or call
 1-800-Stamp24. Go to USPS.com/clicknship
 to print shipping labels with postage.
 For other information call 1-800-ASK-USPS.

Bill#: 1000400926332
 Clerk: 04

All sales final on stamps and postage.
 Refunds for guaranteed services only.
 Thank you for your business.

HELP US SERVE YOU BETTER

Go to: <http://gx.gallup.com/pos>

TELL US ABOUT YOUR RECENT
 POSTAL EXPERIENCE

YOUR OPINION COUNTS

Customer Copy

Registered No. RB295671962US		Date Stamp WILMINGTON DE 19801 10/04/07	
To Be Completed By Post Office	Reg. Fee	\$9.50	
	Handling Charge	\$0.00	Return Receipt \$2.15
	Postage	\$1.31	Restricted Delivery \$0.00
	Received by <i>M. Walker</i>		
Customer Must Declare Full Value \$ \$0.00		<input type="checkbox"/> With Postal Insurance <input type="checkbox"/> Without Postal Insurance	
OFFICIAL USE			
To Be Completed By Customer (Please Print) All Entries Must Be in Ballpoint or Typed	FROM	<i>David P. Cline, Esq.</i> <i>P.O. Box 33</i> <i>Wilmington, DE 19899-0033</i>	
	TO	<i>Charles A Klein + Sons, Inc</i> <i>5200 Kees Mill Rd</i> <i>Sykesville, MD 21784</i>	

PS Form 3806, Receipt for Registered Mail Copy 1 - Customer
 May 2004 (7530-02-000-9051) (See Information on Reverse)
 For domestic delivery information, visit our website at www.usps.com®

Exhibit

B

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<p> <input checked="" type="checkbox"/> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. <input checked="" type="checkbox"/> Print your name and address on the reverse so that we can return the card to you. <input checked="" type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits. </p>	<p> A. Signature <input checked="" type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee <i>Patricia Kennedy</i> B. Received by (Printed Name) <i>PATRICIA KENNEDY</i> C. Date of Delivery D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input checked="" type="checkbox"/> No </p>
<p>1. Article Addressed to:</p> <p> Charles A. Klein + Sons, Inc. 5220 Klee Mill Rd Sykesville, MD 21784 </p>	<p>3. Service Type</p> <p> <input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input checked="" type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. </p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label) <i>RB 295 671 US</i></p>	

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

Exhibit
C

David Cline

From: ded_nefreply@ded.uscourts.gov
Sent: Thursday, October 04, 2007 6:49 PM
To: ded_ecf@ded.uscourts.gov
Subject: Activity in Case 1:07-cv-00557-GMS Silicato et al v. Richardson et al Notice (Other)

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.
*****NOTE TO PUBLIC ACCESS USERS*** You may view the filed documents once without charge. To avoid later charges, download a copy of each document during this first viewing.**

U.S. District Court

District of Delaware

Notice of Electronic Filing

The following transaction was entered by Cline, David on 10/4/2007 at 6:49 PM EDT and filed on 10/4/2007

Case Name: Silicato et al v. Richardson et al
Case Number: 1:07-cv-557
Filer: Russell L. Silicato
Katherine L. Silicato

Document Number: 3

Docket Text:

NOTICE of Long Arm Service of Process Under 10 Del. C. 3112 by Russell L. Silicato, Katherine L. Silicato (Cline, David)

1:07-cv-557 Notice has been electronically mailed to:

David P. Cline davidcline@mylawman.com

1:07-cv-557 Notice has been delivered by other means to:

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1079733196 [Date=10/4/2007] [FileNumber=454504-0]
[73a5e14a56589195abd38bd4275dd8db340d710a5aa8a242fe1a8f4b01d104b97391
ce4d46a31d2f9dd784c05f55498339524f770b16889c81a2b849a52b341c]]

10/5/2007

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

RUSSELL L. SILICATO, individually, and)
KATHERINE L. SILICATO, individually,) C.A. NO. 1:07-cv-00557-GMS
)
Plaintiffs,)
vs.)
)
TIMOTHY RYAN RICHARDSON,)
individually, and)
CHARLES A KLEIN & SONS INC,)
a Foreign Corporation,)
)
Defendants.)

NOTICE

TO: Charles A. Klein & Sons, Inc.
5220 Klee Mill Road
Sykesville, MD 21784

PLEASE TAKE NOTICE that the original of the enclosed Complaint was filed upon the Secretary of State of Delaware pursuant to 10 Del. C. Section 3112.

Service on the Secretary pursuant to 10 Del. C. Section 3112 is as effectual to all intents and purposes as if it had been made upon you personally within the State of Delaware.

/s/ David P. Cline
David P. Cline, Esq. (#2681)
1300 North Market Street
Suite 700
Wilmington, DE 19801
302-529-7848
Attorney for Plaintiffs

Date: 10/04/07

Letter to Defendant, Charles A. Klein & Sons,
Inc., regarding long arm service of process as
prescribed by Section 3112 of the Delaware
Code of 1953

David P. Cline

Attorney-at-Law

Let Mylawman become Yourlawman.™

davidcline@mylawman.com

LICENSED TO PRACTICE IN
DE MD NJ NY & PA

715 N. KING ST., 1ST FLOOR
PO BOX 33
WILMINGTON DE 19899-0033
302 529 - 7848
302 LAW-SUIT

PHILADELPHIA, PA 19103
MEDIA, PA 19063
MT LAUREL, NJ 08054

FAX 302 654-0884

PLEASE NOTE NEW ADDRESS ABOVE; P.O. BOX REMAINS SAME

October 4, 2007

Charles A. Klein & Sons, Inc.
5220 Klee Mill Road
Sykesville, MD 21784

VIA REGISTERED MAIL/RETURN RECEIPT REQUESTED & REGULAR MAIL

Re: Russell L. Silicato, et al. vs. Timothy Ryan Richardson, et al.
Case No.: 07-557 GMS

To Whom It May Concern:

Please take notice that the enclosed process and complaint have been served upon the Secretary of State as prescribed by Section 3112 of Title 10 of the Delaware Code of 1953. This service upon the Secretary of State is made as if that service had been made upon you personally. Enclosed please find a copy of the Service of Process and the Complaint. Please note that you have 20 days from the date of service of this letter to file an answer to this complaint or a default judgment will be entered against you. A copy of that answer must be served upon me.

Please turn this matter over to the auto insurance company that was in effect on the date of this accident. If you do not have insurance that will cover you for this accident please contact me at the above. Thank you.

Very truly yours,

/s/ David P. Cline
(signed electronically)

David P. Cline

Enclosure
DPC/AS/a

Return of Service from Secretary of State for
Defendant, Charles A. Klein & Sons, Inc., for
long arm service of process as prescribed by
Section 3112 of the Delaware Code of 1953

DAO 440 (Rev. 8/01) Summons in a Civil Action

UNITED STATES DISTRICT COURT

District of Delaware

RUSSELL L. SILICATO, individually, and
KATHERINE L. SILICATO, individually,
V. Plaintiffs,
TIMOTHY RYAN RICHARDSON, individually and
CHARLES A. KLEIN & SONS, INC., a foreign
corporation, Defendants.

SUMMONS IN A CIVIL CASE

CASE NUMBER: 7 - 557 GMS

TO: (Name and address of Defendant)
CHARLES A. KLEIN & SONS, INC., a foreign corporation
5220 KLEE MILL ROAD
SYKESVILLE, MD 21784

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

DAVID P. CLINE, ESQUIRE
715 KING STREET, SUITE 107
P.O. BOX 33
WILMINGTON, DE 19899-0033
(302) 529-7848

an answer to the complaint which is served on you with this summons, within Twenty (20) days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

PETER T. DALLEO

CLERK

(By) DEPUTY CLERK

DATE

9/17/07

• AO 440 (Rev. 8/01) Summons in a Civil Action

RETURN OF SERVICE

Service of the Summons and complaint was made by me(I)	DATE 9/28/07
NAME OF SERVER (PRINT) GRANVILLE MORRIS	TITLE SPECIAL PROCESS SERVER

Check one box below to indicate appropriate method of service

☐ Served personally upon the defendant. Place where served: _____

☐ Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.
Name of person with whom the summons and complaint were left: _____

☐ Returned unexecuted: _____

☒ Other (specify): SERVED: CHARLES A. KLEIN & SONS, INC. UNDER 10 DEL. CODE SEC 3112 C/O THE DELAWARE SECRETARY OF STATE TOWNSEND BLDG. DOVER, DE COPIES THEREOF WERE ACCEPTED BY KAREN CHARBANEAU

STATEMENT OF SERVICE FEES

TRAVEL	SERVICES	TOTAL
--------	----------	-------

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on 9/28/07

Date

Signature of Server

BRANDYWINE PROCESS SERVERS, LTD.
P.O. BOX 1360
WILMINGTON, DE 19899-1360
302- 475-2600

Original Complaint Filed on
September 17, 2007

07-557

CIVIL COVER SHEET

JS 44 (Rev. 11/04)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

(a) **PLAINTIFFS** Silicato, Russell & Katherine
husband & wife, AND INDIVIDUALLY

(b) County of Residence of First Listed Plaintiff New Castle
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number) 302-529-7848
715 King St,
Ste 101, Box 33, Wilm, de 19899-0033

DEFENDANTS Richardson, Timothy Ryan,
Individually

County of Residence of First Listed Defendant Worcester
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☒ 1 ☐ 1 Incorporated or Principal Place of Business in This State ☐ 4 ☐ 4
- Citizen of Another State ☐ 2 ☒ 2 Incorporated and Principal Place of Business in Another State ☐ 5 ☒ 5
- Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395b) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSD Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Executive Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Challenge <input type="checkbox"/> 890 Other Regulatory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Discrimination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General Habeas Corpus <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. § 1332 - Diversity

Brief description of cause:

Personal Injury - Auto

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:
 JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See Instructions):

JUDGE

h

DOCKET NUMBER

DATE

9/11/07

SIGNATURE OF ATTORNEY OF RECORD

[Signature]

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

RUSSELL L. SILICATO, individually, and)
KATHERINE L. SILICATO, individually,) C.A. NO.

Plaintiffs,)

vs.)

TIMOTHY RYAN RICHARDSON,)
individually, and)
CHARLES A KLEIN & SONS INC,)
a Foreign Corporation,)

Defendants.)

Plaintiffs, Russell L. Silicato and Katherine L. Silicato, through their counsel, David P. Cline, Esquire and Steven J. Stirparo, Esquire, say by way of Complaint that:

JURISDICTION BASED ON DIVERSITY OF CITIZENSHIP

1. Jurisdiction is based on diversity of citizenship and the amount in controversy exceeds Seventy Five Thousand Dollars (\$75,000), exclusive of interest and costs.
2. Jurisdiction is based on diversity of citizenship under 28 U.S.C. § 1332.

3. Venue lies under 28 U.S.C. Section 1391.

4. Plaintiff, Russell L. Silicato, is and was at all times pertinent hereto a resident of the state of Delaware, residing at 3080 Wrangle Hill Road, Bear, Delaware 19701.

5. Plaintiff, Katherine L. Silicato, is and was at all times pertinent hereto a resident of the state of Delaware, residing at 3080 Wrangle Hill Road, Bear, Delaware 19701, and is the wife of plaintiff, Russell L. Silicato.

6. Defendant, Timothy Ryan Richardson, an individual, upon information and belief, is believed at all times pertinent hereto, a resident of the state of Maryland, residing at 8226 Shira Drive, Berlin, Maryland 21811.

7. Defendant, Charles A. Klein & Sons Inc., a Foreign Corporation, upon information and belief, is believed to be at all times pertinent hereto, a Foreign Corporation of the state of Maryland, with its principal place of business located at 5220 Klee Mill Road, Sykesville, Maryland 21784.

8. At all times pertinent hereto, defendant Timothy Ryan Richardson was acting within the course and scope of his employment with defendant Charles A. Klein & Sons Inc. Therefore, defendant Charles A. Klein & Sons Inc is responsible for the reckless, wanton and/or negligent actions and/or inactions of defendant Timothy Ryan Richardson as an agent, employee and/or servant under the doctrine of *Respondeat Superior* and the law of agency as the principal, employer or master.

COUNT I

9. Plaintiffs hereby incorporate paragraphs 1 through 8 as if fully set forth herein.

10. On September 17, 2005, at approximately 11:50 a.m., plaintiff, Russell L. Silicato, was operating his motorcycle traveling in a southerly direction on Race Track Road, with his wife Katherine L. Silicato as his passenger.

11. At the same time and place, defendant, Timothy Ryan Richardson, was operating a vehicle owned by Charles A. Klein & Sons Inc, traveling in a northerly direction on Race Track

Road and operated such vehicle in a negligent, careless and/or reckless manner, by failing to yield to oncoming traffic while attempting to make a left hand turn, causing his vehicle to violently collide into plaintiff, Russell L. Silicato's motorcycle.

12. This incident was the result of the negligence, carelessness, and /or recklessness of the defendant, Timothy Ryan Richardson, and was not caused in any manner whatsoever by the act or failure to act on the part of the plaintiffs.

13. The aforesaid collision and plaintiff Russell L. Silicato's resulting injuries and damages were proximately caused by the recklessness, wantonness and/or negligence of defendant Timothy Ryan Richardson in that he:

- a. failed to maintain a proper lookout while operating the vehicle he was driving;
- b. failed to give full time and attention to the operation of the vehicle he was driving;
- c. operated the vehicle he was driving in a careless and imprudent manner, without due regard for traffic conditions then existing;
- d. failed to exercise and maintain proper control over the vehicle he was driving;
- e. failed to give full time and attention to the operation of his motor vehicle; and
- f. violated the common-law duty of lookout.

14. As a direct and proximate result of the aforementioned recklessness, wantonness and/or negligence of defendant Timothy Ryan Richardson, plaintiff Russell L. Silicato suffered severe bodily injuries including, but not limited to, injuries to his neck, upper back, shoulders, ribs, right thumb, right hip, right foot and right arm. Some or all of his injuries have continued since the collision and are permanent in nature.

15. As a further consequence of the aforementioned recklessness, wantonness and/or negligence of defendant Timothy Ryan Richardson, plaintiff Russell L. Silicato has incurred, and will continue to incur in the future, medical and related expenses for his care and treatment.

16. As a further consequence of the aforementioned recklessness, wantonness and/or negligence of defendant Timothy Ryan Richardson, plaintiff Russell L. Silicato has incurred in the past and will incur in the future, pain, suffering, discomfort and mental anguish.

17. As a direct and proximate result of the aforementioned recklessness, wantonness and/or negligence of defendant Timothy Ryan Richardson, plaintiff Russell L. Silicato has sustained in the past and may sustain in the future a loss of earnings and/or earning capacity.

18. As a further direct and proximate result of the recklessness, wantonness and/or negligence of defendant Timothy Ryan Richardson, plaintiff Katherine L. Silicato suffered the loss of consortium and companionship of her husband, Russell L. Silicato, as a result of his injuries.

COUNT II

19. Plaintiffs hereby incorporate paragraphs 1 through 18 as if fully set forth herein.

20. As a direct and proximate result of the aforementioned recklessness, wantonness and/or negligence of defendant Timothy Ryan Richardson, plaintiff Katherine L. Silicato suffered severe bodily injuries including, but not limited to, injuries to her right knee. Some or all of her injuries have continued since the collision and are permanent in nature.

21. As a further consequence of the aforementioned recklessness, wantonness and/or negligence of defendant Timothy Ryan Richardson, plaintiff Katherine L. Silicato has incurred, and will continue to incur in the future, medical and related expenses for her care and treatment.

22. As a further consequence of the aforementioned recklessness, wantonness and/or negligence of defendant Timothy Ryan Richardson, plaintiff Katherine L. Silicato has incurred in the past and will incur in the future, pain, suffering, discomfort and mental anguish.

23. As a direct and proximate result of the aforementioned recklessness, wantonness and/or negligence of defendant Timothy Ryan Richardson, plaintiff Katherine L. Silicato has sustained in the past and may sustain in the future a loss of earnings and/or earning capacity.

24. As a further direct and proximate result of the recklessness, wantonness and/or negligence of defendant Timothy Ryan Richardson, plaintiff Russell L. Silicato suffered the loss of consortium and companionship of his wife, Katherine L. Silicato, as a result of her injuries.

WHEREFORE, plaintiffs demand judgment against defendants, jointly and severally, for their special and general damages, including pain and suffering, punitive damages, attorney fees, pre and post judgment interest, the costs of this action and other such relief as the Court finds just.

DAVID P. CLINE, P/A

BY: 
s/ David P. Cline

David P. Cline, Esq. (#2681)
715 King Street, Suite 100
P.O. Box 33
Wilmington, DE 19899-0033
Attorney for Plaintiffs
(302) 529-7848

Dated: September 17, 2007

AO FORM 85 RECEIPT (REV. 9/04)

United States District Court for the District of Delaware

Civil Action No. 07-57

ACKNOWLEDGMENT
OF RECEIPT FOR AO FORM 85

NOTICE OF AVAILABILITY OF A
UNITED STATES MAGISTRATE JUDGE
TO EXERCISE JURISDICTION

I HEREBY ACKNOWLEDGE RECEIPT OF 2 COPIES OF AO FORM 85.

17 Sept 2007
(Date forms issued)

[Signature]
(Signature of Party or their Representative)

David P. Cline
(Printed name of Party or their Representative)

Note: Completed receipt will be filed in the Civil Action

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

RUSSELL L. SILICATO, individually, and)	
KATHERINE L. SILICATO, individually,)	C.A. NO. 1:07-cv-00557-GMS
)	
<i>Plaintiffs,</i>)	
vs.)	
)	
TIMOTHY RYAN RICHARDSON,)	
individually, and)	
CHARLES A KLEIN & SONS INC,)	
a Foreign Corporation,)	
)	
<i>Defendants.</i>)	

NOTICE OF SERVICE

I, David P. Cline, Esquire, hereby certify that on this 4th day of October, 2007 copies of the NOTICE UNDER 10 DEL.C. §3112 UNDER DELAWARE LONG ARM STATUTE TO DEFENDANT, CHARLES A. KLEIN & SONS, INC. were filed electronically with the U.S. District Court and sent by registered and regular mail to:

Charles A. Klein & Sons, Inc.
5220 Klee Mill Road
Sykesville, MD 21784

DAVID P. CLINE, P.A.

BY: /s/ David P. Cline
DAVID P. CLINE, ESQUIRE (#2681)
1300 Market Street, Suite 700
P.O. Box 1970
Wilmington, DE 19899-1970
(302) 529-7848
Attorney for Plaintiffs

Dated: 10/4/07

Exhibit

D

David P. Cline

Attorney-at-Law

Let Mylawman become Yourlawman.™

davidcline@mylawman.com

LICENSED TO PRACTICE IN
DE MD NJ NY & PA

715 N. KING ST., 1ST FLOOR
PO BOX 33
WILMINGTON DE 19899-0033
302 529 - 7848
302 LAW-SUIT

PHILADELPHIA, PA 19103
MEDIA, PA 19063
MT LAUREL, NJ 08054

FAX 302 654-0884

PLEASE NOTE NEW ADDRESS ABOVE; P.O. BOX REMAINS SAME

October 4, 2007

Charles A. Klein & Sons, Inc.
5220 Klee Mill Road
Sykesville, MD 21784

VIA REGISTERED MAIL/RETURN RECEIPT REQUESTED & REGULAR MAIL

Re: Russell L. Silicato, et al. vs. Timothy Ryan Richardson, et al.
Case No.: 07-557 GMS

To Whom It May Concern:

Please take notice that the enclosed process and complaint have been served upon the Secretary of State as prescribed by Section 3112 of Title 10 of the Delaware Code of 1953. This service upon the Secretary of State is made as if that service had been made upon you personally. Enclosed please find a copy of the Service of Process and the Complaint. Please note that you have 20 days from the date of service of this letter to file an answer to this complaint or a default judgment will be entered against you. A copy of that answer must be served upon me.

Please turn this matter over to the auto insurance company that was in effect on the date of this accident. If you do not have insurance that will cover you for this accident please contact me at the above. Thank you.

Very truly yours,

/s/ David P. Cline
(signed electronically)

David P. Cline

Enclosure
DPC/AS/a

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

RUSSELL L. SILICATO, individually, and)		
KATHERINE L. SILICATO, individually,)		C.A. NO. 1:07-cv-00557-GMS
)	
<i>Plaintiffs,</i>)	
vs.)	
)	
TIMOTHY RYAN RICHARDSON,)	
individually, and)	
CHARLES A KLEIN & SONS INC,)	
a Foreign Corporation,)	
)	
<i>Defendants.</i>)	

CERTIFICATE OF SERVICE

I, David P. Cline, Esquire, hereby certify that on this 18th day of October, 2007 copies of the **AMENDED COMPLAINT AND LONG ARM AFFIDAVIT UNDER 10 DEL.C. §3112** were filed electronically with the U.S. District Court and sent by regular mail to:

Charles A. Klein & Sons, Inc.
5220 Klee Mill Road
Sykesville, MD 21784

By: /s/ David P. Cline
David P. Cline, Esq. (#2681)
1300 North Market Street
Suite 700
Wilmington, De 19801
302-529-7848
Attorney for Plaintiffs

Date: October 18, 2007